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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Schubart et al.

Serial No.: 09/981,397

Filed: October 16, 2001

Entitled: CELLULAR KINASES INVOLVED IN
CYTOMEGALOVIRUS INFECTION AND
THEIR INHIBITION

ART UNIT: 1648

EXAMINER: Salimi, Ali Reza

Attorney Docket No.: AXM-004.1 US

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. §1.78(a)(6) TO ACCEPT AN
UNINTENTIONALLY DELAYED CLAIM TO PRIORITY UNDER 35 U.S.C. §119(e)**

Sir:

This petition is submitted pursuant to 37 C.F.R. §1.78(a)(6) to request acceptance of an unintentionally delayed claim to priority for the above-referenced application, which claims priority to provisional application no. 60/240,750, filed October 16, 2000.

Adjustment date: 05/28/2004 AKELLEY
08/28/2003 AWONDAF1 00000045 09981397
01 FC:1454 -1300.00 OP
Repln. Ref: 05/28/2004 AKELLEY 0008283100
DAB:500268 Name/Number:09981397
FC: 9204 \$1300.00 CR

REMARKS

The above-referenced application was filed under 35 U.S.C. §111(a) with the United States Patent & Trademark Office on October 16, 2001 and claimed priority to pending provisional application 60/240,750, filed October 16, 2000.

Pursuant to 37 C.F.R. §1.78(a)(5)(ii), any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number series code and serial number. This reference must be submitted during the pendency of the later-filed application; moreover, if the later-filed application is an application filed under 35 U.S.C. §111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application.

08/28/2003 AWONDAF1 00000045 09981397

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The present application correctly claimed priority pending provisional application 60/240,750, filed October 16, 2000, in the combined declaration/power of attorney (copy attached as Exhibit A); however, the specification was inadvertently never amended to contain the reference set forth in 37 C.F.R. §1.78(a)(5)(i) and 35 U.S.C. §119(e). Applicants' representatives were unaware of this error until pointed out by the Examiner in the Office Action dated July 21, 2003 (copy attached as Exhibit B).

Pursuant to 37 C.F.R. §1.78(a)(6)(iii), Applicants' representatives state that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(5)(ii) and the date the claim was filed, was unintentional. Accordingly, pursuant to 37 C.F.R. §1.78(a)(6)(i), Applicants' representatives submit an Amendment herewith requesting amendment to the specification of the above-referenced U.S. application to include the claim to priority to the prior-filed provisional application.

Additionally, pursuant to 37 C.F.R. §1.78(a)(6)(ii), Applicants submit the surcharge of \$1300.00 (check no. 4707) under 37 C.F.R. §1.17(t).

Applicants respectfully request acceptance and entry of the claim for priority filed concurrently herewith.

Respectfully submitted,



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CERTIFICATE OF MAILING BY "EXPRESS MAIL"

The undersigned hereby certifies that this correspondence listed above is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR §1.10, postage prepaid, in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

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Aug. 25, 2003
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Stephanie Leicht